

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,) CRIMINAL NO. 15-4268 JB
)
vs.)
)
ANGEL DELEON, et al.,)
)
Defendants.)

UNITED STATES' RESPONSE TO MINUTE ORDER
FILED JANUARY 10, 2018 (DOC. 1619)

The United States of America hereby files this response to the Minute Order filed on January 10, 2018. Doc. 1619. The Court directed AUSA James Braun to respond by the end of business on January 17, 2018. *Id.*

In the Minute Order, the Court requested the United States to respond to the following questions:

- (i) Does the United States stand by its argument that the Court should try the Counts 6-7 Defendants alongside the Counts 8-12 Defendants -- and will the United States defend that argument on appeal and not concede error -- even though evidence admitted against the Counts 8-12 Defendants under rule 801(d)(2)(E) is not admissible for its truth -- under that rule -- against the Count 6-7 Defendants and vice versa?; (ii) Does the United States stand by its argument that the Court should proceed in a joint trial -- and will the United States defend that argument on appeal and not concede error -- given the number of statements that will be admissible against only one defendant under rule 801(d)(2)(A), requiring many limiting instructions?; (iii) Will the United States defend on appeal -- and not concede error -- the Courts ruling that particular out-of-court statements elicited by confidential human sources, such as Defendant Rudy Perez' statements to Billy Cordova and Defendant Anthony Baca's statements to Eric Duran, are nontestimonial?; (iv) Will the United States defendant on appeal -- and not concede error -- the Court's ruling that Bruton v. United Sates, 391 U.S. 123 (1968) permits a nontestimonial confessions introduction, with a limiting instruction, if the confession implicates multiple defendants and is only admissible against one of them?

The United States responds that, based on the current state of the law and the anticipated evidence at trial, it does stand by its arguments identified above and does intend to defend on appeal the Court's decisions identified above.

Respectfully Submitted,

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Electronically filed on 1/17/2018

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I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send electronic notification to defense counsel of record on this date.

/s/
MARIA Y. ARMIJO
Assistant United States Attorney